

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD ANTHONY NIELSON,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:23-cv-2744 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a state prisoner, proceeding without counsel, with this action. For the reasons stated herein, this court recommends dismissal of this action.

On November 28, 2023, petitioner opened this action by filing a letter with the court which appeared to address the validity of petitioner's conviction. (ECF No. 1.) Petitioner filed no other pleadings. On December 6, 2023, the court granted petitioner thirty days to file a habeas corpus petition. (ECF No. 3.) Thirty days passed and petitioner did not file a habeas corpus petition. Instead, on December 18, 2023 and December 26, 2023, petitioner filed three documents. (ECF Nos. 4, 5, 6.)

On January 16, 2024, the court found that while the three documents filed December 18, 2023 and December 26, 2023 were not habeas corpus petitions, they reflected petitioner's interest in proceeding with this action. (ECF No. 7.) The court granted petitioner thirty days to file a habeas corpus petition. (*Id.*) Thirty days have passed from January 16, 2024 and petitioner has

not filed a habeas corpus petition.

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall appoint a district judge to this action; and

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Petitioner is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: February 28, 2024



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

Niel2744.fta